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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RALPH E. SIPPLE, JAMES R. MCBREEN, and
MICHAEL F. STANTON

Appeal No. 2009-011765
Application No. 09/304,906[1]
Technology Center 2400

Before MARC S. HOFF, CARLA M. KRIVAK, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a Final Rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6 (b).

We reverse.

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[1] The real party in interest is Unisys Corporation.

Appellants' invention concerns a video on demand system that separates the tasks of supplying video to subscribers from the tasks associated with managing the subscriber interface. "A first hardware and software subsystem, called a video server, is specifically dedicated to retrieving and transmitting the stream of video information" (Spec. 7). A second hardware and software subsystem having a different architecture from the first subsystem, called the transaction server, handles virtually all other functions (*id.*). Multiple users are synchronized around one-minute time slots, so that the maximum number of transmissions to all users of a given video program will not exceed 60 per hour of programming (*id.* at 16).

Claims 1 and 16 are exemplary of the claims on appeal:

> 1. In a video on demand system for supplying requested video data to a plurality of subscriber receivers, the improvement comprising:
>
> a. a first processor having a first hardware architecture optimized to perform a variety of computational tasks which spools said requested video data in response to said request;
>
> b. a video server memory responsively coupled to said first processor in which said spooled requested video data is stored; and
>
> c. a second processor having a second hardware architecture different from said first hardware architecture optimized to perform input/output operations responsively coupled to said video server memory and said subscriber receiver which accesses said spooled requested video data directly from said video server memory without passing through said first processor and streams said spooled requested video data to said plurality of subscriber receivers in a plurality of streams spaced apart by a predetermined time.
>
> 16. A method of providing video on demand services comprising:
>
> a. generating a video on demand request from a first subscriber at a first time;
>
> b. generating said video on demand request from a second subscriber at a second later time;

c. spooling a single copy of a video program corresponding to said video on demand request into a memory by a transaction processor having a first hardware and software architecture;

d. streaming said corresponding video program directly from said single copy of said video program to said first subscriber at a third time by a video processor having a second hardware and software architecture; and

e. streaming said corresponding video program directly from said single copy of said video program to said second subscriber beginning at a time difference from and later than said third time by said video processor.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Craig	US 5,790,176	Aug. 4, 1998
Forecast	US 6,230,200 B1	May 8, 2001

Claims 1, 2, 4-6, 10-12, and 14-25 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by Craig.

Claims 3, 7-9, and 13 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Craig.

Throughout this decision, we make reference to the Second Supplemental Appeal Brief ("App. Br.," filed November 28, 2008) and the Examiner's Answer ("Ans.," mailed March 9, 2009) for their respective details.

ISSUES

Appellants argue, *inter alia*, that Craig does not teach a first processor, having a first hardware architecture, that spools the requested video data, as recited in various claims (App. Br. 17-18). Appellants further argue that Craig does not teach a second processor having a second hardware architecture different from said first hardware architecture (App.

Br. 20). Appellants contend that Craig does not teach "streaming said spooled video program to said two subscribing television receivers as two separate spaced apart streams from said copy of said video program" (App. Br. 23) (emphasis omitted), or "from the same memory copy of the video program as claimed" (App. Br. 26).

Appellant's contentions present us with the following issues:

1. Does Craig teach a first processor, having a first hardware architecture, that spools the requested video data in response to a request?

2. Does Craig teach a second processor having a second hardware architecture different from the first hardware architecture?

3. Does Craig teach streaming the spooled video program to two subscribing television receivers as two separate spaced apart streams from the same memory copy of the video program?

PRINCIPLES OF LAW

"A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference." *See In re Buszard,* 504 F.3d 1364, 1366 (Fed. Cir. 2007) (quoting *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994)).

ANALYSIS

CLAIMS 1, 2, 4, AND 5

We disagree with the Examiner's finding that Craig teaches a second processor "having a second hardware architecture different from said first hardware architecture" [of the first processor] (Ans. 12). The Examiner's sole basis for the finding is that output controller 330 includes transmission circuitry for transmitting multi-media data to remote end users, and includes output channels and ports (Ans. 12).

These two facts do not establish that the architecture of controller 330 is different from the architecture of elements 350, 370, and 572, cited by the Examiner as corresponding to the claimed first processor.

We further disagree with the Examiner's finding that Craig teaches a first processor "which spools said requested video data" (Ans. 3). The Examiner defines "spooling" as "to send a file for output to a device," and cites Appellant's Specification, in which spooling is illustrated as "transferring digital video data from digital disk mass storage devices to a memory for output to subscribers" (Ans. 11). The Examiner then cites column 10, lines 29-40 of Craig as allegedly teaching spooling (Ans. 11). The cited section, however, merely discusses the decision process for choosing a type of storage for a feature. The Examiner has not shown that Craig teaches spooling of requested video data, by the first processor, in response to a request, as the claims require.

We find that Craig does not teach all the limitations of independent claim 1. Therefore, we will not sustain the § 102 rejection of claim 1, nor of claims 2, 4, and 5 dependent therefrom.

CLAIMS 6 AND 10

We disagree with the Examiner's finding that Craig teaches a memory having a copy of the video program, such that the spooled video program is streamed to two subscribing receivers as two separate spaced apart streams *from the copy*, as claim 6 requires.

The Examiner cites column 9, lines 30-39 of Craig as teaching this limitation (Ans. 15). The cited section of Craig teaches only storing a feature in archival storage if it has not been requested within a predetermined time period. Accordingly, the Examiner has failed to

show that Craig teaches streaming a spooled video program to two subscribing receivers as two separate streams, from a (single) copy.

We further find, as with claim 1 *supra*, that Craig does not teach a video processor having a second hardware architecture different from the first hardware architecture (of the transaction server).

We therefore find that Craig does not teach all the limitations of independent claim 6. We will not sustain the § 102 rejection of claim 6, or claim 10 dependent therefrom.

CLAIMS 11, 12, 14, AND 15

As explained *supra* with reference to claim 1, we find that Craig does not teach "video processing means having a second hardware and software architecture different from said first hardware and software architecture" (i.e., of the transaction processing means), as recited in claim 11.

We further find that, as explained *supra* with reference to claim 6, Craig does not teach accessing a requested video on demand program "twice directly from said copy stored within said storing means," as recited in claim 11.

We therefore find that Craig does not teach all the limitations of claim 11, or claims 12, 14, and 15 dependent therefrom. We will not sustain the Examiner's § 102 rejection of claims 11, 12, 14, and 15.

CLAIMS 16-20

As explained *supra* with reference to claim 6, we find that Craig does not teach "streaming [the] corresponding video program directly from *said single copy* of said video program to said second subscriber beginning at a time difference from and later than said third time by said video processor," as recited in claim 16 (emphasis added).

We find that Craig does not teach all the limitations of claim 16, or claims 17-20 dependent therefrom. We will not sustain the Examiner's § 102 rejection of claims 16-20.

CLAIMS 21-25

As explained *supra* with reference to claim 1, we find that Craig does not teach "a video server having a second hardware and software architecture different from said first hardware and software architecture" (i.e., of the transaction processor), as recited in claim 21.

We further find that, as explained *supra* with reference to claim 1, Craig does not teach a transaction processor which spools said video program in response to said video program request, as recited in claim 21.

We therefore find that Craig does not teach all the limitations of claim 21, or claims 22-25 dependent therefrom. We will not sustain the Examiner's § 102 rejection of claims 21-25.

CLAIMS 3, 7-9, AND 13

As noted *supra*, we find that Craig does not teach all the limitations of claims 1, 6, and 11, from which these claims variously depend. The Examiner's § 103 rejection does not include a secondary reference which could remedy the noted deficiencies of Craig. Therefore, we will not sustain the § 103 rejection of claims 3, 7-9, and 13, for the same reasons given supra with respect to the Examiner's § 102 rejection.

CONCLUSIONS

1. Craig does not teach a first processor, having a first hardware architecture, that spools the requested video data in response to a request.

2. Craig does not teach a second processor having a second hardware architecture different from the first hardware architecture.

3. Craig does not teach streaming the spooled video program to two subscribing television receivers as two separate spaced apart streams from the same memory copy of the video program.

ORDER

The Examiner's rejection of claims 1-25 is reversed.

REVERSED

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